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Attorney for Chanta Hopkins

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	) No. CR-16-0477-VC
	)
Plaintiff,	) DECLARATION OF STEVEN F. GRUEL IN
	) SUPPORT OF DEFENDANT CHANTA
Vs.	) HOPKINS MOTIONS: (1) FOR A <i>FRANKS</i>
	) HEARING; (2) TO SUPPRESS EVIDENCE
CHANTA HOPKINS, et al,	) SEIZED AT THE TIME OF ARREST; and (3)
	) TO SUPPRESS EVIDENCE FOUND IN THE
Defendants.	) JASPERSTREET APARTMENTS #3306 and
	) VEHICLE
	)
	) Honorable Vince Chhabria
	)
	) Hearing Date: November 28, 2017
	) Time: 10:30 a.m.
	)
	)

I, Steven F. Gruel, under penalty of perjury hereby declare the following:

1. I am an attorney licensed and in good standing in the State Bars of Wisconsin and California. I represent Chanta Hopkins in the above federal prosecution. I have reviewed the Superseding Indictment filed in this case and the government's discovery provided to the defense. I make this declaration upon that review of the government's discovery along with the charges filed against defendant Chanta Hopkins.

*DECLARATION OF STEVEN F. GRUEL*

- 1 2. Attached hereto as Exhibit A is a true and correct copy of the government's discovery  
2 pertaining to the April 5, 2016 chase by FBI Special Agent Stonie Carlson and Brian Koh  
3 of co-defendant Donnell Artis who was spotted outside Willie Brown's Liquor store  
4 located at 1933 Fruitvale Avenue, Oakland, California. Agent Carlson claimed to  
5 recover Artis' cellular telephone at the liquor store. No time for the chase or the recovery  
6 of the cellular phone is recorded in the FBI report. On April 5, 2016 at 3:29 p.m. federal  
7 agent Carlson obtained a California state search warrant to search Artis' cellular  
8 telephone which was in the possession of the United States Marshals. The contents of  
9 this cellular telephone were not "extracted" until April 8, 2016. See USABC 00012 –  
10 00017. I asked AUSA Shailika Kotiya at what time on April 5, 2016 the chase of  
11 Donnell Artis because no time was indicated in any report. On October 2, 2017, AUSA  
12 Kotiya replied via email that "Having spoken with FBI Agent Stonie Carlson, his  
13 recollection is that they spotted Artis early afternoon on April 5, 2016, outside of Willie  
14 Brown's."  
15
- 16 3. Attached hereto as Exhibit B are true and correct copies of two (2) April 7, 2016,  
17 Alameda County state search warrants (consisting of only four (4) pages of cover sheets  
18 forms with no supporting declarations) pertaining to Chanta Hopkins aka Mohammed  
19 Askari Aquil for a cell-site simulator for Subject Telephone #1 described as a Verizon  
20 Wireless assigned telephone number 832-763-5555. The Alameda County state search  
21 warrants provided for the "real time tracking information, including but not limited to  
22 satellite Global Positioning System (GPS) . . ." to locate that particular phone. Mr.  
23 Hopkins was handed or these four (4) documents were placed in his property when he  
24 was arrested and sent to Placer County.  
25  
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- 1 4. Upon my review of the government's discovery, the state search warrant pages attached  
2 as Exhibit B and described above, were not included in the discovery production. While  
3 the government did produce reports that on April 11, 2016, agents waited in a vacant  
4 apartment for Chanta Hopkins to leave apartment 3306 for the hallway of the Jasper  
5 Street Apartments located at 45 Lansing Street, San Francisco, there were no reports  
6 provided indicating why law enforcement waited for Mr. Hopkins at that location. Mr.  
7 Hopkins was immediately arrested as he entered the hallway from apartment #3306.  
8
- 9 5. Attached as Exhibit C are three (3) pages of excerpts of telephone records produced by  
10 the government in discovery pertaining to the cellular telephone recovered by agent  
11 Carlson on April 5, 2016 alleged to have belonged to Donnell Artis. I redacted these 3  
12 pages to conceal nonrelated telephone numbers. The first page is a record of the  
13 "incoming" calls to the recovered cellular telephone. I highlighted the single call (call  
14 #10) from 18327635555 incoming on April 5, 2016 at 2:51:05 AM (UTC + 0). The  
15 second page is a record of "missed" calls to the recovered cellular telephone alleged to  
16 belong to Donnell Artis. I highlighted the single missed call (Call # 5) from  
17 18327635555 missed on April 5, 2016 at 8:04:14 AM (UTC +0). The third page pertains  
18 to "unknown" calls pertaining to the recovered cellular telephone. I highlighted the single  
19 call from 18327635555 on April 5, 2016 at 6:02 PM (UTC +0).  
20
- 21 6. I researched the term "UTC" as seen in the cellular telephone records described above  
22 and learned that "UTC" stands for Coordinated Universal Time. I further learned that  
23 UTC time is seven (7) hours ahead of Pacific Standard Time (PST). Therefore, when  
24 subtracting seven (7) hours from the records described above one concludes that the  
25 incoming call from 18327635555 came at approximately 8 PM on April 4, 2016; the  
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1 missed call from 18327635555 came at approximately 1 AM on April 5, 2016; and the  
2 “unknown” call came at approximately 11 AM on April 5, 2016 --- all of three (3) calls  
3 were before the “early afternoon” chase and subsequent recovery of the cellular telephone  
4 belonging to Donnell Artis.

- 5 7. Attached hereto as Exhibit D is a true and correct copy of my September 8, 2017 letter to  
6 the prosecutor in this case summarizing my efforts to obtain the complete set of  
7 documents for the two (2) state search warrants for the cell-site simulator for telephone  
8 number 832-763-5555 which were missing from the four (4) pages of forms given to Mr.  
9 Hopkins by the agents. I learned in my discussions with AUSA Kotiya that none of the  
10 documentation related to the state warrants used by agent Carlson to obtain permission to  
11 use the cell-site simulator for 832-763-5555 was provided to her prior to my requesting it.  
12
- 13 8. On September 26, 2017 the government first produced what appears to be a complete set  
14 of documents pertaining to the four (4) pages of the Alameda County state warrants for  
15 the cell site simulator for number 832-763-5555. These documents are attached hereto as  
16 Exhibit E. For example, the Return to Alameda County Search Warrant states that on  
17 April 11, 2016, the Cell Site Simulator was deployed beginning at approximately 10:21  
18 hours and ending at approximately 17:05 hours. See USCH 002337. The officer’s  
19 Return to Search Warrant also indicates that all “data collected during this mission has  
20 been destroyed.” The Affidavit by federal agent Stonie Carlson for the Cell Site  
21 Simulator search warrant is heavily redacted (unlike his April 5, 2016 declaration for the  
22 state search warrant to extract information from Donnell Artis recovered cellular  
23 telephone). See USCH 002340 – 002342. Agent Carlson has completely redacted all  
24 alleged information he presented to the state judge indicating why he believed 832-763-  
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1 5555 was a number associated with Chanta Hopkins. Moreover, in paragraph 10, agent  
2 Carlson represented that while Donnell Artis' recovered cellular telephone was in law  
3 enforcement possession it "received several incoming calls from cellular telephone  
4 number 832-763-5555." The call log records produced by the government in discovery,  
5 as seen in above Exhibit C, prove this statement to be false. To the contrary, the  
6 produced records show that no calls from 832-763-5555 came to Artis' cellular telephone  
7 after the April 5, 2016 chase.

8  
9 9. To fully review and assess the legality of the federal agent Carlson's declaration for the  
10 state search warrant for the cell site simulator, I requested that the government produce a  
11 completely unredacted version of the declaration. Attached hereto as Exhibit F is the  
12 government's response denying my request. Instead, the government reproduced the  
13 heavily redacted Carlson declaration while uncovering what was already seen in other  
14 parts of the case discovery that Donnell Artis was chased on April 5, 2016, by law  
15 enforcement and they recovered his cellular telephone.

16  
17 10. My review of the discovery in this case reveals that the government used several cell site  
18 simulator search warrants. However, the federal government only applied for and  
19 obtained the Alameda County state warrant for a cellular phone related to Mr. Hopkins.  
20 All the other cell site simulator warrants were in accordance with federal law, with the  
21 prior review and approval of AUSA Jerome Mayer-Cantu and were subsequently  
22 reviewed and authorized by either Chief Magistrate Judge Joseph C. Spero or Magistrate  
23 Judge Sallie Kim.

24 11. Attached hereto as Exhibit G is a true and correct copy of the April 11, 2016, 5:00 PM  
25 state search warrant for the Jasper Apartments Complex located at 45 Lansing Street in  
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1 San Francisco, Apartment Unit # 3306. In his affidavit for the search warrant, Sergeant  
2 Salvador Perez, states that he fully believes that Mr. Hopkins “will be located within  
3 apartment unit 3306” and that the U.S. Marshals are “ascertaining” whether Mr. Hopkins  
4 is currently inside unit #3306. The discovery shows that Mr. Hopkins was arrested as he  
5 walked out of unit #3306 into the hallway by law enforcement waiting across the hallway  
6 in a vacant apartment. As seen in the Return to the Search Warrant for the state cell site  
7 simulator for the cellular number 832-763-5555 (Exhibit E, above) the cell site simulator  
8 was turned off on April 11, 2016 at 17:05 hours (5:05 PM). As Sergeant Perez swore  
9 five (5) minutes earlier in this state search warrant declaration, the US Marshals were  
10 “ascertaining” whether Mr. Hopkins was inside apartment number 3306 and once  
11 arrested, the Marshals turned the cell site simulator off.  
12

- 13 12. Once Mr. Hopkins was arrested around 5:00 PM, as he exited apartment #3306,  
14 Sergeant Salvador Perez applied for a new San Francisco county state search warrant for  
15 apartment #3306 and a 2016 Infinity Black SUV. Attached hereto as Exhibit H is a true  
16 and correct copy of the April 11, 2016, 7:00 PM state search warrant for the Jasper  
17 Apartments Complex located at 45 Lansing Street in San Francisco, Apartment Unit #  
18 3306. The state warrant was limited exclusively to identification documents, credit cards,  
19 debit cards, computers and other devices used to manufacture false identification and  
20 credit or debit cards. There was no indication or authorization to seize any property  
21 beyond that mentioned in the warrant. In fact, the authorizing state Judge (The  
22 Honorable Ethan P. Shuman) added to the warrant and order that ‘All information  
23 obtained through execution of the warrant that is unrelated to the objective of the warrant  
24 shall be sealed and not subject to further review, use or disclosure without court order.”  
25  
26

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13. I have reviewed photographs associated with the search of apartment #3306. Blank credit cards, materials, computers, equipment and devices to create cards, receipts from credit card purchases, and merchandise purchased with credit cards are photographed within the apartment. Cocaine was found in the apartment hidden in a shopping bag in a kitchen cabinet and inside a freezer.

14. The state warrant did not authorize searching and seizing any drugs from apartment #3306 and Mr. Hopkins was not arrested immediately outside the apartment possessing any drugs. To my knowledge, the government directly violated Judge Shuman's handwritten explicit order and seized the drugs and charged Mr. Hopkins for drug offenses without an explicit Court order.

15. Attached hereto as Exhibit I is a true and correct copy of the San Francisco Police Department Report (Number 160298751), with my redactions of identification numbers for other individuals, describing the hallway arrest of Mr. Hopkins as the Jasper Apartments.

I declare that the above is true and correct under penalty of perjury.

Dated: October 11, 2017                      /s/  
STEVEN F. GRUEL

*DECLARATION OF STEVEN F. GRUEL*